

UNITED STATES DISTRICT COURT

ORIGINAL

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable YVONNE GONZALEZ ROGERS, Judge

IN RE: SOCIAL MEDIA)	Further Case Management
ADOLESCENT ADDICTION/)	
PERSONAL INJURY PRODUCTS)	
LIABILITY LITIGATION)	NO. C 22-03047 YGR
)	
)	
ALL ACTIONS)	Pages 1 - 33
)	
_____)	Oakland, California
		Friday, March 22, 2024

REPORTER'S TRANSCRIPT OF PROCEEDINGS

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(Appearances continued next page)

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Friday, March 22, 2024

1:31 p.m.

P R O C E E D I N G S

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THE CLERK: Good afternoon everyone.

Calling this afternoon's matter, 22-MD-03047-YGR, In Re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation.

Appearances will be added to the -- will be posted with the minutes this afternoon.

Thank you.

THE COURT: Okay. Let's get started.

Again, a reminder when you come to the mic, please identify yourselves. Makes it easier for my court reporter.

First, we'll just do some administrative tasks. So there's the AG motion to file appendices at Docket 701. It is unopposed. The motion's granted. 701 shall be terminated.

There are a number of Guardians ad Litem applications. Those are at 641 and the motions to seal at 640. I have worked with my staff. I've granted them. We're just in the process of getting everything posted, so you should see them come across soon.

With respect to the chart under *Tull*, that's at 648 -- or 684, I'll talk to the parties on that one real quick.

MS. HAZAM: Good afternoon, Your Honor. Bianca

1 Miyata for the state AGs.

2 **MR. HESTER:** Good afternoon, Your Honor. Timothy
3 Hester of Covington & Burling for Meta.

4 **THE COURT:** Okay. Good afternoon.

5 So the goal here is to -- for me to know and for you all
6 to confer and figure out which of these things needs to be
7 tried to a jury versus are there any to which a jury is not
8 entitled. That's the ultimate goal.

9 Now, if everything's entitled to a jury, no need for a
10 chart. Just tell me you've all met and conferred, and
11 everything's entitled to a jury.

12 But when we were last here, you had mentioned *Tull*. You
13 did not have a specific perspective on it. It's now a month
14 later. So I'm not trying to make busy work. What I'm trying
15 to do is understand if there are certain claims in certain
16 states for which a jury trial is not required and/or is not --
17 you know, party is not entitled to them.

18 That's my goal. So how do we get to the end goal here?

19 **MS. HAZAM:** Your Honor, if I may, Mr. Hester --
20 Mr. Hester and myself have met and conferred several times
21 about this topic.

22 (Off-the-record discussion.)

23 **MS. HAZAM:** We have met and conferred several times
24 on the topic, and the state AGs do agree that *Tull* is the
25 relevant authority here, *Tull* and its progeny cases. However,

1 we're not necessarily aligned on the result of the application
2 of *Tull*.

3 And at the beginning of our conferrals, I think both
4 parties read the Court's request for a chart to ask the AGs to
5 provide and for Meta to respond on the state law on whether a
6 jury is required or each state law and remedy. But as our
7 conversations developed and we realized that we were aligned
8 that *Tull* was the relevant authority, we had further
9 discussions about the scope of this chart.

10 Seeking clarification about the scope of the chart for a
11 couple of different reasons. The question of whether *Tull*
12 would actually require a jury trial on the these state claims
13 is an issue of first impression among the states, and the
14 states have some concerns --

15 **THE COURT:** Is it -- I'm sorry.

16 **MS. HAZAM:** Yes.

17 **THE COURT:** Is an issue of first impression among all
18 the states or among some states?

19 **MS. HAZAM:** We believe that the question of whether
20 *Tull* applies to state consumer protection claims is a question
21 of first impression among the 35 states.

22 **THE COURT:** Okay.

23 **MS. HAZAM:** And the state AGs have some concern about
24 preemptively providing a position on that question of law
25 where Meta has not yet demanded a jury and that actual demand

1 may not -- that demand may not come to fruition.

2 So there's a couple things in the background with our
3 thinking there, including the fact that there is a pending
4 Supreme Court opinion in *Jarkesy*. Argument has been heard in
5 that case. An opinion will issue this spring. And that may
6 well impact the scope of the federal jury trial right under
7 *Tull* and the Seventh Amendment.

8 And for that reason as well as the states' hesitation, I
9 think, to provide a preemptive opinion on a hypothetical jury
10 demand, the states would ask -- the state AGs would ask the
11 Court to hold this question in abeyance.

12 To the extent that this is a question that is certainly
13 pertinent and relevant for the Court's scheduling, we're happy
14 to discuss what could be done with regard to the scheduling,
15 and the states are certainly open to the scheduling of a trial
16 date falling in September before the previous October '25 -- I
17 think it's October '25 trial date that's on the books. We are
18 certainly open to that. And that could always be vacated in
19 the event that the Court were to determine that that's not
20 appropriate.

21 But the states have severe reservations about opining in
22 the hypothetical on a unsettled unaddressed issue of law at
23 this point for an issue that Meta has not actually made a
24 demand for.

25 **THE COURT:** All right.

1 A response, Mr. Hester.

2 **MR. HESTER:** Your Honor, I -- as -- as we read the
3 Court's last order, it was for the state AGs to identify the
4 nature of the claims they were asserting under their state
5 laws and, in particular, to specify whether they were
6 asserting a claim for civil penalties.

7 We're not -- I didn't read the Court's order to be saying
8 tell me whether or not a jury trial right attaches under each
9 of your claims.

10 **THE COURT:** Well, I think that was ultimately the
11 point; that is, you could be right technically. But the --
12 but only -- the nature of the question was to be able to
13 discern whether a jury trial was -- was being requested.

14 **MR. HESTER:** Right.

15 Well, Your -- Your Honor, it seems to us that the -- that
16 the first step, after we've now agreed that *Tull* is the
17 controlling authority here, is to confirm that each of the
18 states is seeking civil penalties under its consumer
19 protection statute, which we think is pretty clear from the
20 nature of the complaints.

21 **THE COURT:** Okay. But do you have a response to what
22 she said? I've not -- that's what I was asking for.

23 **MR. HESTER:** Well, the -- our response is that we
24 believe we have an entitlement to a jury trial in relation to
25 any claim for civil penalties, so we think it would be helpful

1 to confirm that.

2 We -- I -- I had read the Court's order to be getting to
3 that point, that we needed confirmation on the nature of the
4 penalties they were seeking, damages and/or civil penalties
5 and that would then --

6 **THE COURT:** Right, but for the -- but for the purpose
7 of trying to schedule and figure out if there was a way to get
8 a bench trial versus not having a bench trial, so there --
9 it's not an inquiry without a purpose.

10 **MR. HESTER:** Right. I understand, Your Honor.

11 **THE COURT:** And I didn't know about *Tull*. So I will
12 at this point then withdraw the request. We'll hold it in
13 abeyance.

14 What is the name of the case again that you made reference
15 to?

16 **MS. HAZAM:** Your Honor, it is called *Jarkesy*, and if
17 I could spell that. It's J-a-r-k-e-s-y. That case has been
18 argued before the Supreme Court, so I would anticipate its
19 issuance before the end of the term in June.

20 **THE COURT:** Okay. Well, we would hold it and figure
21 out where we go next after that decision comes out.

22 Thank you.

23 **MS. HAZAM:** Thank you.

24 **MR. HESTER:** Thank you, Your Honor.

25 **THE COURT:** All right. Docket 678, there's a small

1 little typo that had to be fixed to amend the school district
2 master complaint to change the name of defendant TikTok
3 Limited PTE to TikTok Limited. That motion is granted. 678
4 is terminated.

5 Okay. In the joint -- the agenda and joint statement, I
6 do want to just confirm and -- I believe I'm right, but it
7 wasn't defined. In your statement, your reference to "DFS" is
8 to "defendants fact sheets," right?

9 **MS. HAZAM:** Correct.

10 **THE COURT:** Okay. Can someone give me an update as
11 to what happened with Judge Kuhl two days ago. I've been a
12 little bit busy and have not reached out to her.

13 **MS. McNABB:** Good afternoon, Your Honor. Kelly
14 McNab, Lieff Cabraser for the plaintiffs.

15 **THE COURT:** Okay.

16 **MS. SIMONSEN:** Good afternoon, Your Honor. Ashley
17 Simonsen for the Meta defendants from Covington & Burling.

18 **THE COURT:** All right. Good afternoon.

19 Go ahead.

20 **MS. McNABB:** We -- the parties had a conference with
21 Judge Kuhl on Wednesday. There was discussion about the
22 defendant fact sheet. The parties in the JCCP are still
23 working on finalizing the defendant fact sheet.

24 And there was some discussion about data that's referred
25 to as snapshots. It's data that the defendants have been

1 capturing once they receive account information from the
2 plaintiffs as part of their preservation obligations.

3 But with respect to the defendant fact sheet, that fact
4 sheet is limited to roughly three categories of information.
5 It's --

6 **THE COURT:** I -- Okay. Sorry.

7 **MS. McNABB:** Okay. I don't have to provide
8 information about what's requested in the defendant fact
9 sheet, but they are --

10 **THE COURT:** Yeah, I'm just trying to understand --

11 **MS. McNABB:** Where it stands?

12 **THE COURT:** -- what happened with Judge Kuhl.

13 **MS. SIMONSEN:** And I'm happy to provide an update on
14 that. I'm not sure if Ms. McNabb was there. We did have a
15 conference with Judge Kuhl on Wednesday.

16 The principal issue that we discussed was bellwether
17 selection for the personal injury plaintiffs. And Judge Kuhl
18 determined that there would be 24 personal injury bellwether
19 plaintiffs in the JCCP. In advance of the conference, she
20 sent the parties a message proposing a first draft of
21 potential categories of bellwether plaintiffs.

22 She had already ordered the parties to meet and confer on
23 a grid that will be populated with DFS and PFS data to help
24 analyze how bellwe- -- how plaintiffs might be allocated into
25 those categories.

1 She stated that her view is that bellwether plaintiffs
2 should be selected on a random basis with a certain number of
3 plaintiffs selected out of each of the categories that the
4 Court and the parties ultimately determine is appropriate.

5 At a high level, the categories that she broke down relate
6 to specific injury categories such as self harm, eating
7 disorders, depression and anxiety, as well as certain factors
8 relating to frequency of use as well as the age of first use.

9 So the parties are to continue meeting and conferring on
10 which categories may be -- from which bellwether plaintiffs
11 may be selected.

12 Judge Kuhl also set a December 6th deadline for the
13 parties to complete fact discovery on the personal injury
14 bellwether plaintiffs with the expectation then that expert
15 discovery would follow the same time line as Your Honor has
16 set out in CM010.

17 With respect to the school district bellwether plaintiffs,
18 Judge Kuhl held that she will wait until she rules on the
19 pending demurrer to the school district complaints before
20 issuing any decisions or orders with respect to those
21 plaintiffs.

22 That was the primary issue that was addressed --

23 **THE COURT:** Okay.

24 **MS. SIMONSEN:** -- at that conference.

25 **THE COURT:** Would you agree?

1 **MS. McNABB:** Yes, I would agree. But with specific
2 reference to the defendant fact sheet, the parties reported
3 that they are continuing to meet and confer to finalize those
4 fact sheets, as well as an implementation order which would
5 contain a stipulation that the defendants would not be
6 considering information that is uniquely in their possession
7 in their bellwether selection process.

8 **MS. SIMONSEN:** And, Your Honor, there is no DFS
9 process. As Your Honor is aware in this court, the plaintiffs
10 did not request one, so we're --

11 **THE COURT:** Well, are we going -- we can pivot to
12 that issue. That wasn't what I was asking about.

13 But we can pivot.

14 **MS. SIMONSEN:** Certainly. My colleague Jonathan
15 Blavin will address that.

16 **THE COURT:** Okay.

17 **MR. BLAVIN:** Good afternoon, Your Honor. Jonathan
18 Blavin from Munger Tolles on behalf of defendants now.

19 **THE COURT:** Okay. So.

20 I do understand with respect to the selection process,
21 there is this dispute over whether defendants should consider
22 that information. I've read both parties' statements. And my
23 view is they can consider it.

24 The plaintiffs have so much more information on their
25 clients than the defense does. Most importantly, in any kind

1 of case like this are the clients -- your clients' ability to
2 withstand examination on cross-examination, how they appear,
3 and their credibility.

4 None of that is within the grasp of the defendants, so in
5 my view, in many ways, this levels the playing field. You
6 each have a little bit of information that the other doesn't,
7 and we'll see where it -- where it lands.

8 Otherwise, I'm going to kick -- you know, I set this
9 schedule because plaintiffs wanted to move quickly. And there
10 are consequences to that decision. This is one of them.

11 If you want to kick them forward and push back the trial
12 dates, defendants are happy to do that. They don't want this
13 trial schedule. So do you want to keep your trial schedule or
14 not?

15 **MS. McNABB:** Yes, Your Honor, we do want to keep our
16 trial schedule.

17 **THE COURT:** Okay. Then they can consider the
18 information.

19 Next issue.

20 Let's see. Why don't we stick on this issue of
21 bellwethers and pretrial order number 11. There were two
22 requests that pretrial order 11 be modified, one to change the
23 lexicon language; and, two, to add the phrase "suicidality,"
24 open paren, or "suicidal ideation," closed paren in addition
25 to Subsection B.

1 Those stipulations will be granted, but they'll be -- the
2 text of those orders will come under pretrial order number 12.
3 I don't want there to be lots of little orders everywhere.
4 It -- it makes it very difficult to track over time.

5 So the issue of having a non-Meta defendant in bellwether
6 criteria. Let me just say this. As you all know -- and we
7 will -- we'll see. I think it's actually a very good test
8 case.

9 Judge Kuhl has a very different view of how to pick these
10 bellwethers than I do. It is very mathematical. I get that.
11 And I'll be interested to see what the results are. Mine is
12 much more organic.

13 I don't think it is likely that I would pick a bellwether
14 that you submit to me that doesn't have Meta given that 95,
15 96, 97 percent of the claims have Meta defendants. If you
16 want to use your pick to make that argument, well, go ahead.
17 Be my guest. I really -- it really doesn't bug me. If they
18 want to -- if you want to go down that road.

19 I'd rather see what they have to say. How -- how -- I
20 don't -- because this is a vacuum for me, right? So it would
21 have to be a great argument for me to ignore the fact that
22 that would only apply to 3 percent. And I don't know how you
23 are going to make that argument that somehow sets a tiny
24 fraction when these are supposed to be bellwethers -- would
25 satisfy your obligation to present me with representative --

1 a -- some kind of representative sample.

2 So -- so it's a pretty high bar.

3 **MS. SIMONSEN:** And your point is as well taken, Your
4 Honor. I think -- the point we're trying to make is, you
5 know, there are also approximately, I think, 65 percent of the
6 cases that name Snap and that name TikTok as a defendant, and
7 so sort of the same logic would seem to apply there.

8 There's just no reason to single out Meta as the only
9 defendant that needs to be named in order for a case to be
10 eligible. It may well be that both sides' proposal in the
11 case is in which Meta is named as a defendant.

12 But we see no reason, given the volume of cases that also
13 name at least two of the -- of the other defendants in these
14 cases, why Meta as a defendant should be a criteria.

15 **THE COURT:** Yeah, but Meta's not the only one being
16 named. So it's Meta plus.

17 **MS. SIMONSEN:** Correct. It's -- it's -- well, it
18 depends on, of course, what case, right --

19 **THE COURT:** Of.

20 **MS. SIMONSEN:** -- the.

21 **THE COURT:** I totally understand that, but that's my
22 point, is that it's Meta in -- what's the number? 98?

23 **MS. HAZAM:** For what criterion, I'm sorry, Your
24 Honor.

25 **THE COURT:** How many of the claims include Meta?

1 **MS. HAZAM:** By our account, all but 11, so over
2 95 percent. I think their count is 12, so not much different.

3 **THE COURT:** Okay. So if over 95 of the -- percent of
4 the claims have Meta either individually or Meta plus someone
5 else, like I said, I think it would be hard -- it will be hard
6 to convince me that all of them should not have Meta. In
7 some -- in some version of Meta, right? So --

8 But, again, it frankly, I don't -- I don't know why you'd
9 push so hard on this because it may mean that I just don't
10 take one of their choices and they've wasted a choice.

11 **MS. HAZAM:** Your Honor, with the Court's guidance,
12 we're satisfied. We're -- we're happy to allow for the
13 possibility of a non-Meta case being proposed. We understand
14 the Court's instructions.

15 **THE COURT:** All right. So go ahead.

16 **MS. SIMONSEN:** Thank you, Your Honor.

17 **THE COURT:** Okay.

18 There is problems with the most recent filing yesterday,
19 and I am referring to Docket 709, the stipulated
20 implementation order governing school district plaintiff fact
21 sheet and supplemental plaintiff fact sheet.

22 So I think this was just a -- a lot of moving pieces.
23 Someone, whoever was in charge of getting the filing right,
24 just screwed up on one of the exhibits, so here's what
25 happens.

1 As I understand it, 675, which was the prior incarnation
2 of 709 is superseded by 709. So 675 is terminated. But when
3 you all filed 709, you filed Exhibit A properly. 709-1 is
4 correct.

5 But when you filed 709-2, which was supposed to be the
6 supplemental plaintiff fact sheet, you filed the old plaintiff
7 fact sheet, which is 675-1. So I think it's just -- it was
8 just a filing error.

9 **MR. WARREN:** That definitely sounds like that.

10 Previn Warren for the plaintiffs.

11 **MR. DRAKE:** Geoffrey Drake, King & Spalding, for the
12 TikTok defendants. I had the same question as I was preparing
13 to come over here today, Your Honor, and I think we can -- we
14 can get this corrected.

15 **THE COURT:** We can do it one of two ways. You can
16 refile the stipulation with the correct exhibits, or you can
17 stipulate on the record that I will substitute in the correct
18 document, which I understand to be 675-2.

19 **MR. DRAKE:** My preference -- I don't know what
20 Mr. Warren's would be -- is that we refile it to ensure that
21 we do it correctly because I don't want to misspeak as to some
22 nuance of detail that perhaps is incorrect when I think some
23 other folks in our teams were handling the primary filing. I
24 think that would be the cleanest way to do it.

25 **MR. WARREN:** Absolutely agree.

1 **THE COURT:** Okay. Then I'm going to terminate 675 as
2 moot. I'm going to terminate 709 as premature.

3 **MR. WARREN:** Very well, Your Honor.

4 **MR. DRAKE:** Sorry for that, Your Honor. We'll fix
5 that.

6 **THE COURT:** Okay.

7 Question about the -- and we sent an email about this, so
8 the school district multi-plaintiff cases, I just want to make
9 sure that we're on board with the procedural issues here.

10 Who do I have for school district cases?

11 So there are eight school district plaintiffs that have
12 transferred into this MDL. Case number 24-594 transferred in
13 but has multiple plaintiffs cases in that one case, which is
14 not the process that we have been using in terms of how we're
15 managing these cases.

16 So is -- is there anything we need to do in terms of
17 procedural orders to address these multi-plaintiff member
18 cases that are being transferred because we're not allowing
19 multi-plaintiffs in direct filing cases.

20 **MS. SIMONSEN:** Your Honor, Ashley Simonsen for the
21 Meta defendants.

22 Subject to plaintiffs' views, I believe that those
23 individual plaintiff school districts would be required to
24 file short-form complaints, which I think may resolve the
25 issue insofar as there would eventually be stand-alone

1 complaints for each of them.

2 **MR. WARREN:** I believe that's correct, Your Honor.

3 Previn Warren for the plaintiffs.

4 That does seem like one fairly administratively easy way
5 to solve the problem if it works for the Court.

6 **THE COURT:** Okay. So then they will -- once they're
7 transferred in, the -- the notion is that they'll file their
8 own short-form complaint, and that will resolve the issue.

9 **MR. WARREN:** Correct, Your Honor.

10 **MS. SIMONSEN:** And, Your Honor, I believe that the
11 implementation order that you may already have entered or that
12 will be entered if there's an amended version pending -- I
13 believe that it does provide a deadline for cases transferred
14 into this MDL to file short-form complaints.

15 And I only mention that so that Your Honor is aware that I
16 think administratively you already have set up a procedure to
17 deal with this.

18 **MR. WARREN:** I believe that's correct.

19 **THE COURT:** Okay. Great. Thank you.

20 **MS. SIMONSEN:** Um-hmm.

21 **THE COURT:** Okay.

22 **MR. WARREN:** May I ask the Court, was that the only
23 transferred case that had that issue, 24-5 --

24 **THE COURT:** That's the only one we've noticed.

25 **MR. WARREN:** Okay.

1 **THE COURT:** The Clerk's Office reached out to us.

2 **MR. WARREN:** Okay. Thank you.

3 **THE COURT:** Okay.

4 **MR. WARREN:** We can -- I ask because we could reach
5 out to the attorneys that are responsible for that case and
6 let them know about the short-form complaint process.

7 **THE COURT:** Yeah. So far as that's the only one that
8 we've seen. If there are others, then we missed them.

9 **MR. WARREN:** We'll check as well. Thank you.

10 **THE COURT:** Okay. Thanks.

11 Back to the AGs, I had a question. So in addition to the
12 multistate complaint transferred in -- this is, again, a
13 transfer issue -- we've got -- Utah and New Mexico and Montana
14 have all filed complaints. Utah and New Mexico's are pending
15 in state court, but the State of Montana's has been
16 transferred.

17 State of Montana has not joined the dismissal briefing,
18 so -- or does Meta -- have you talked about this? Is Meta
19 planning to move to dismiss the Montana complaint? Where with
20 do we stand on the Montana issue.

21 (Interruption by the Certified Shorthand Reporter to
22 request counsel to identify himself for the record.)

23 **MR. LEIWS:** My apologies Chris Lewis for the
24 Attorneys General.

25 Brian Barnes is counsel for Montana.

1 To my knowledge, there's not been discussion with Meta yet
2 regarding that motion to dis-brief -- to dismiss briefing
3 specifically as to Montana.

4 **MR. HESTER:** That's correct, Your Honor.

5 **THE COURT:** So there has not been, you said?

6 **MR. LEIWS:** That's correct.

7 **MR. BARNES:** And I'm Brian Barnes for the State of
8 Montana.

9 And that -- and that's correct. We haven't conferred with
10 the other side about briefing on a motion to dismiss.

11 **MR. HESTER:** I -- Your Honor, Timothy Hester on
12 behalf of Meta.

13 I think it's -- reflects a fact that Montana came late
14 after this briefing had been put in place already. That's why
15 we haven't really addressed this yet.

16 **THE COURT:** Okay. So what I have done sometimes when
17 I have this kind of collective -- collective briefing is --
18 and then I have late-comers to the parties, so to speak,
19 right -- is I issue my -- my order, and then I issue an order
20 to show cause why it shouldn't apply.

21 So we can do that approach or, you know, something
22 similar. But -- but my suggestion would be if you want to
23 actually -- or maybe you all will agree to have them
24 participate informally. I don't know.

25 But if -- if there is a perspective that you want me to

1 consider, it's -- can either, I guess, consider it, or I can
2 figure out or you all can figure out a way to bring you into
3 the process, now or that's likely what I would do in the
4 future.

5 **MR. BARNES:** And, Your Honor, I think the show cause
6 mechanism that the Court suggested is a reasonable one and
7 could be an efficient approach.

8 The one thing I'd flag for the Court is that the Montana
9 complaint includes some claims that really don't overlap with
10 the multistate complaint. And so at one point or another,
11 there -- you know, I'll have to see what the motion to dismiss
12 briefing looks like, but it's likely that our complaint will
13 present the Court with some legal issues that it doesn't have
14 in the -- in the other cases.

15 **THE COURT:** And can you tell me what those are.

16 **MR. BARNES:** Sure. So the -- much of the Montana
17 complaint focuses on alleged misrepresentations by Meta about
18 the availability of mature content on the Instagram platform.
19 And that -- to the best of my knowledge, that's not -- it's
20 certainly not a -- a claim that's in the multistate complaint,
21 and I'm -- I'm not sure that there are similar claims before
22 the Court in -- in any of the other MDL cases.

23 **THE COURT:** Okay.

24 Mr. Hester.

25 **MR. HESTER:** Well, it does seem to us, Your Honor,

1 that the most efficient way to sift this out would be to await
2 the Court's ruling on the -- on the bigger motion to dismiss,
3 and then we can determine what's left and how that would
4 apply.

5 And it may well be that the parties would be able to work
6 it out once the Court rules on -- on the larger motion to
7 dismiss. So it does seem more efficient and less burdensome
8 on the Court than providing a separate set of motions at this
9 point.

10 **THE COURT:** Okay.

11 **MR. BARNES:** Montana vigorously agrees.

12 **THE COURT:** Right.

13 That's a good use of the word "vigorous." I always -- I
14 have to tell you, when you -- when I see it in the papers, I
15 always remind my clerks about that great scene in *A Few Good*
16 *Men*. "Denied."

17 "No, I vigorously -- vigorously object."

18 "Denied."

19 Okay. Thank you.

20 **MR. BARNES:** Thank you, Your Honor.

21 **MR. HESTER:** Thank you, Your Honor.

22 **THE COURT:** Okay.

23 So in terms of future arguments, there's a reference in
24 the -- in your outline -- let -- this is what I can tell you.
25 My plan -- my plan is that April, we'll have argument on the

1 AG -- motion to dismiss the AG complaints and the consumer
2 protection claims.

3 If I can get to the school district cases, I will, but I'm
4 not sure that I will.

5 I don't know that you all spend much time looking at
6 what's going on out here, but I just issued an injunction on
7 the Bureau of Prisons female facility here in Dublin, and
8 that's taking a chunk of my time.

9 And then later this month, I have *Epic Games vs. Apple*
10 coming back on a contempt motion, so that will take some time
11 as well.

12 And so I'm shuffling -- I promise you, we're working very
13 hard to keep everything going and keeping you all moving
14 along. And if I can, I will get to it. I'm just not sure
15 that I -- if I can, I'll let you know so you can prepare for
16 the hearing. Okay?

17 If not, May is the target for that one.

18 June would then be the target for the nonpriority claims
19 and the -- also in June, the CCM Snap arguments as well.

20 So that's the current plan. Again, things -- you know,
21 the life of a district judge, one day you can have everything
22 under control and the next day, it's all gone, or you --
23 working really hard, and they settle.

24 So you never -- never know what happens, so if things
25 change, I'll -- you know, I'll let you know, so we can keep

1 you apprised.

2 Those were the things that I had on my list. And -- and I
3 would say also, I don't want to keep you all here more than
4 you need to be. You should just be prepared to spend all day
5 in April to the extent that -- so that we can get everything
6 done with all of the bellwether issues and everything else.

7 The only reason I take breaks is not for you. It is for
8 my court reporter.

9 So I went -- they were teasing me because I went out to
10 the prison, spent nine hours without nothing -- without
11 coffee, water, break, lunch. I can go. And I'll have you go
12 with me.

13 But I will -- I love my court reporters. So we will take
14 breaks, but we'll just -- we'll start at the beginning of the
15 day, and we'll just keep going till we get done. We'll take a
16 short lunch. You don't want a big lunch anyway, you'll fall
17 asleep, so -- okay?

18 What else do you all have?

19 **MR. WARREN:** Previn Warren for the plaintiffs.

20 Not a terribly much. We did want to flag that on May 10th
21 there's a CMC at 9:30 and a DMC at 1:00, which I think is
22 fine, but to your point about, you know, going -- going all
23 day, there -- either we wanted to just flag in case that was
24 inadvertent on the Court's part.

25 **THE COURT:** Let me check. It -- it may not have been

1 because --

2 **THE CLERK:** 9:30, Your Honor, on May 10th.

3 **THE COURT:** Yeah. I'm just seeing what else I
4 have -- my May tends to be a wreck.

5 So typically -- let's see. What did you -- yeah, so I --
6 so that's my standard day, is Friday.

7 So I would have raised this question with Judge Kang.
8 Maybe he's not available on Thursday.

9 **MR. WARREN:** I see. Okay.

10 **THE COURT:** 'Cause I thought he was trying to do
11 Thursdays, and I'm doing Friday.

12 **MR. WARREN:** Uh-huh.

13 **THE COURT:** And I don't do Thursdays because that's
14 my criminal calendar. So as far as I can see, I have mine on
15 the correct day.

16 **MR. WARREN:** Very well. We -- we can raise that with
17 Judge Kang just to make sure that that was deliberate. We
18 just -- we just want to make sure that we can get to
19 San Francisco in time.

20 **THE COURT:** Right. And he -- our system just went
21 through a system migration. I can't even get my email up
22 here, so I can't send him a note.

23 But he and I can coordinate to make sure obviously that
24 you can -- you can make it to both. I know that there's some
25 judicial trainings in May, and it could just be that he's in a

1 training on May 9th so did it for -- assuming when we would be
2 done --

3 **MR. WARREN:** Right.

4 **THE COURT:** -- doing it after that.

5 **MR. WARREN:** Yeah. And it's no problem for the --
6 for the plaintiffs. I'm assuming it's no problem for the
7 defendants provided that we get out of the CMC, you know,
8 around -- I don't know, I suppose noon. I don't know how the
9 traffic patterns are.

10 **THE COURT:** You know what, this is the problem.

11 Well, there -- I think there's a judicial training, so let
12 me -- let me confer with him.

13 What does our Thursday look like, Edwin?

14 **THE CLERK:** The 9th, Your Honor?

15 **THE COURT:** Yes.

16 **THE CLERK:** Sentencing at 9:00, and two statuses at
17 10:00, and another sentencing at 3:00 p.m. Your Honor.

18 **THE COURT:** Okay. Why don't I move you to the ninth.
19 So we can --

20 What time are my statuses again?

21 **THE CLERK:** One status at 9:00 together with one
22 sentencing. At 10:00 a.m., one status conference. 2:00 p.m.,
23 one status conference.

24 **THE COURT:** Okay. Let's go ahead and start you all
25 at 10:30.

1 And I'll do my criminal calendar in advance and then
2 afterwards.

3 Okay?

4 Other issues you want to discuss?

5 **MR. WARREN:** I don't think so, Your Honor.

6 One thought, to the extent it's helpful, that the
7 nonpriority claims that I know you'll be hearing in most
8 likely June, it's possible we could break those up and perhaps
9 do some of the smaller, more manageable ones during other
10 hearing -- instead of doing the school district issue and
11 trying to do that on April 19th when I know Your Honor has a
12 lot already going on, you know, perhaps we could do --

13 **THE COURT:** Well, I had the school district scheduled
14 for May. Not June.

15 **MR. WARREN:** I'm -- I might have misunderstood, Your
16 Honor. I thought you were thinking maybe we would do it on
17 April but if not May, but that's fine.

18 **THE COURT:** So what I said is if I could get to it, I
19 would but right now, it's scheduled for May.

20 **MR. WARREN:** Very well.

21 **THE COURT:** Okay?

22 **MR. SCHMIDT:** Paul Schmidt for Meta, Your Honor. I
23 have the easiest argument.

24 Thank you for the guidance. We have nothing further.

25 **THE COURT:** Okay. And I did try to get you all out

1 of here earlier.

2 **MR. BLAVIN:** Thank you, Your Honor.

3 **THE COURT:** My apologies. Like I said it's been
4 very, very busy, and I just forgot to let you know that my
5 trial resolved.

6 **MR. WARREN:** I believe Ms. Hazam may have one small
7 issue.

8 **THE COURT:** Yes.

9 **MS. HAZAM:** Thank you, Your Honor. Lexi Hazam for
10 plaintiffs.

11 I just wanted to update you that with regards to the
12 complaint Your Honor referred to at 24-594, this is the
13 complaint with the first plaintiff --

14 **THE COURT:** Yes.

15 **MS. HAZAM:** -- being the Board of Education for East
16 Prairie, my understanding is that they have filed the
17 individual short-form complaints already, although I am
18 seeking to actually see them to confirm.

19 **THE COURT:** Okay.

20 **MS. HAZAM:** But I've been given that information.

21 **THE COURT:** Okay. Great. Terrific. Thank you.

22 **MS. HAZAM:** Thank you, Your Honor.

23 **MR. BLAVIN:** Thank you, your Honor.

24 **MS. MIYATA:** Apologies, Your Honor. Bianca Miyata
25 for the state AGs.

1 I have one final point to raise, and that is that the
2 parties have been meeting and conferring about filing times
3 and attempting to improve upon and streamline our
4 collaboration and the proof for joint filing. And we have
5 submitted a stipulation to the Court asking the Court to order
6 a filing time of 4:00 o'clock p.m. for all joint filings.

7 **THE COURT:** I will do that in the next case
8 management order.

9 **MS. MIYATA:** All right. Thank you, Your Honor.

10 **THE COURT:** You know, the law clerks don't understand
11 what we used to do.

12 Do people remember the bikers -- the bike runners who
13 would be at the law firms, and you were scrambling to get them
14 your -- your box or your bag or whatever. I -- and they
15 would -- you know, those bikes would just go whipping -- you
16 should not have been on the road, like, the hour before filing
17 date -- you know, 5:00 o'clock.

18 And -- you know, and then we have all this electronic
19 stuff, right, and one wonders whether it's good or bad that
20 there's a midnight filing time. I think it just makes it
21 worse on the lawyers.

22 **MS. HAZAM:** I'm glad they're not biking at midnight.
23 That would be bad.

24 **THE COURT:** But my point is, you know, lawyers
25 operate on deadlines. So you're going to scramble if it's

1 five, you're going to scramble if it's midnight. The question
2 is when are you going to scramble? So 4:00 o'clock is --
3 that's, you know, reasonable. That works nicely.

4 **MS. HAZAM:** Thank you, Your Honor.

5 **THE COURT:** I will include that.

6 Okay. I'm just double-checking my notes here to see if I
7 got everything on my agenda.

8 (Pause in the proceedings.)

9 **THE COURT:** Yeah, I think that's it. So this will
10 probably be the shortest conference that we have.

11 Enjoy the weekend. And I'll see you in about a month,
12 okay?

13 We're adjourned.

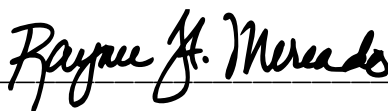
14 **THE CLERK:** Court is adjourned.

15 (Proceedings were concluded at 2:14 P.M.)

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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not financially nor otherwise interested in the outcome of the action.



Raynee H. Mercado, CSR, RMR, CRR, FCRR, CCRR

Tuesday, March 26, 2024